THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.19631 of 2005

Date:06.09.2005

B.Jayalakshmi

----------Petitioner

The Superintendent and another

----------Respondents

ORDER

The petitioner states that she has undergone tubectamy operation at the Government General Hospital, Kurnool initially on 12.05.2000 and despite the same, she conceived and gave birth to a child. It is her case that she underwent operation for the second time on 14.10.2003 and even thereafter, another child was born. She contends that on account of the imperfect services rendered by the respondents, not only the family became unmanageable for the petitioner, but also she has suffered serious health problems. It is stated that she is attacked with tuberculosis. On the basis of these allegations, the petitioner claims compensation of Rs.10,00,000/- from the respondents.

Heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner claims a sum of Rs.10,00,000/- obviously towards compensation for the suffering she has undergone, be it, in terms of health or the burden to the family, on account of the birth of children, despite the operations. The relief claimed by the petitioner can be granted in its entirety or in part, if only the findings are recorded to the effect that-

a) the petitioner had undergone operation at the Government

Hospital;

b) the operation was not properly conducted; and

c) the failure of the operations has resulted in deterioration of

health of the petitioner and financial burden to her.

By its very nature, the determination of these questions warrants and needs recording of evidence of the relevant witnesses and examination of record. Such a course would be possible only in a properly constituted suit.

It is true that filing of a suit for the relief of damages for such a sum would entail in payment of huge Court fee. However, it is not as if the petitioner is without any relief. She can file an application before the concerned Court to sue the respondent as indigent person. In case an application is filed under Order 33 C.P.C. while filing the suit claiming the damages, the concerned Court is required to deal with the application in the proper perspective, and from the angle of the poverty and ill-health of the petitioner.

For the foregoing reasons, the writ petition is disposed of, leaving it open the petitioner to file a suit together with an application for permitting her to sue as an indigent person. In such an event, the concerned Court shall consider the application, in the context of the financial and health conditions of the petitioner. There shall be no order as to costs.

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06.09.2005

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